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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;
16 OTTOMOTTO LLC; OTTO TRUCKING
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF ITS
OPPOSITION TO DEFENDANTS UBER
TECHNOLOGIES, INC. AND
OTTOMOTTO LLC'S PRECIS IN
SUPPORT OF REQUEST TO FILE
MOTION IN LIMINE TO EXCLUDE
TESTIMONY AND OPINIONS OF
WAYMO EXPERT LAMBERTUS
HESSELINK ON TS 25**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal portions of its Opposition to Defendants Uber Technologies, Inc. and Ottomotto LLC’s Precis in Support of Request to File Motion in Limine to Exclude Testimony and Opinions of Waymo Expert Lambertus Hesselink on TS 25 (“Waymo’s Opposition”). Specifically, Waymo requests an order granting leave to file under seal the portions of the documents as listed below:

| Document | Portions to Be Filed Under Seal | Designating Party |
|--------------------|---------------------------------|--|
| Waymo’s Opposition | Highlighted Portions | Waymo (green highlighting); Defendants (blue highlighting) |

I. LEGAL STANDARD

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)).

II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION

The Court should seal the portions of Waymo’s Opposition (highlighted green) identified by Waymo in the table above. Waymo seeks to file this information under seal because it discloses Waymo’s trade secrets and confidential business information. *See* Declaration of Felipe Corredor (“Corredor Decl.”) ¶¶ 3-5. Courts have determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc’ns Sys.*,

1 *Inc. v. A10 Networks, Inc.*, No. C 10-3428, 2013 WL 211115, at *1, *3 (N.D. Cal. Jan. 17, 2013)
 2 (granting request to seal document that “consists entirely of descriptions of Brocade’s trade secrets”).
 3 Confidential business information that, if released, may “harm a litigant’s competitive standing” also
 4 merits sealing. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to
 5 seal trade secrets that fit squarely within these categories. Corredor Decl. ¶¶ 3-5. Waymo maintains
 6 this information as a trade secret (*see* Dkt. 25-31) and ensures the information remains secret with
 7 strict secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Corredor Decl. ¶ 4. Waymo
 8 has narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both *Music*
 9 *Group* and *Brocade* found the confidential information at issue in those cases met the heightened
 10 “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at *1; *Brocade*, 2013 WL
 11 211115, at *1, *3. The information that Waymo seeks to seal, therefore, also meets this heightened
 12 standard. The disclosure of Waymo’s trade secret information would harm Waymo. Corredor Decl.
 13 ¶ 4. Moreover, the scope of information that Waymo is seeking to seal is consistent with other
 14 administrative motions to seal that have already been granted by the Court in this case. (*See, e.g.*, Dkt.
 15 416, 414, 406, 393, 392.) Thus, the Court should grant Waymo’s administrative motion to seal.

16 **III. DEFENDANTS’ CONFIDENTIAL INFORMATION**

17 Waymo only seeks to seal the portions of Waymo’s Opposition identified as designated by
 18 Defendants in the table above because Waymo believes such information is considered confidential or
 19 non-public by Defendants. Corredor Decl. ¶ 6. Waymo takes no position as to the merits of sealing
 20 any of designated material, and expects Defendants to file declarations in accordance with the Local
 21 Rules.

1 **IV. CONCLUSION**

2 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the
3 above listed documents accompany this Administrative Motion. For the foregoing reasons,
4 Waymo respectfully requests that the Court grant Waymo's administrative motion to file under
5 seal.

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7 DATED: November 13, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
LLP

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9 By /s/ Charles Verhoeven

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